

# **LAWRENCE COUNTY LOCAL RULES**

## **LAWRENCE COUNTY LOCAL ADMINISTRATIVE RULES**

### **LR47-AR00-001      APPLICABILITY AND CITATION OF RULES**

- A.** The following rules shall apply to cases filed on the docket in the Lawrence Circuit and Superior Courts, excepting cases on the Small Claims Docket, and unless as otherwise noted. In the event of conflict between the local rules and the Rule of the Supreme Court of Indiana or the laws of the State of Indiana, the applicable law, or the rule of the Supreme Court, shall govern.
- B.** These rules may be cited as “Local Rule \_\_\_\_”. The Indiana Rules of Trial Procedure are hereinafter referred to as “Trial Rule \_\_\_\_” or “TR\_\_\_\_”.
- C.** As used in the rules which follow, the word “pleadings” shall mean and include all motions, documents, or other papers filed with the Court by any party, except as is otherwise provided herein.

### **LR47-AR00-002      ASSIGNMENT OF CASES**

- A. Generally.** This Local Rule on assignment of cases supersedes prior rules and will be effective on July 1<sup>st</sup>, 2014.
- B. Criminal Case Assignment.**
  - 1. All felonies, including those classified as Murder, Class A, Class B, Class C, Level I, Level II, Level III, Level IV, and Level V as well as those Class D and Level VI felonies which do not charge an alcohol or controlled substance offense, shall be filed in equal proportion, on a blind filing basis, in the two Superior Courts through the Office of the Lawrence County Clerk, with Superior Court Division I assigned 2/3 of those cases and Superior Court Division II assigned 1/3 of those cases. All Class D and Level VI felonies and misdemeanors charging an alcohol or controlled substance offense, and all infraction and ordinance violations, shall be filed in the Lawrence Superior Court, Division II. All other non-traffic related misdemeanors shall be filed in the Lawrence Superior Court, Division I. All initial filing determinations shall be on the basis of the most serious offense charged.
  - 2. Charges involving co-defendants will, if possible, be filed in the same Court. The Courts will transfer such cases if such co-defendants are inadvertently separated at the time of the original filing.

- C. Transfer of Criminal Cases.** The Judges of the Lawrence Superior Courts, by appropriate order, may transfer and reassign to the other Courts any pending case, subject to acceptance by the receiving Court.
- D. Re-Filing and Subsequent Filing of Criminal Cases.** Upon dismissal of a case by the State of Indiana and a subsequent re-filing of the case based on the same occurrence, such newly filed case shall be re-filed in the Court from which the dismissal was taken. Further, in the event additional criminal charges are filed against a felony defendant at any time prior to sentencing, the additional charges shall be filed in the Court in which the other charges are already pending.
- E. Change of Judge in Criminal Case.** In the event the regular Judge of the Court recuses himself/herself, the case shall be assigned as follows: from the Judge of the Superior Court, Division I, to the Judge of the Superior Court, Division II; from the Judge of the Superior Court, Division II, to the Judge of the Superior Court, Division I. When it is necessary to appoint a special judge pursuant to Criminal Rule 13, it shall be done in accordance with District 20 Rule on appointment of special judge in criminal cases at **DR20-CR13-000**.
- F. Civil and Other Case Assignment.** All small claims shall be filed in the Lawrence Superior Court, Division II. All civil proceedings which are assigned a CP, PL, CT, RS, MF, CC or MI cause number shall be filed in the Lawrence Circuit Court through the Clerk of Lawrence County. Additionally, all proceedings regarding dissolution of marriage shall be filed in the Lawrence Circuit Court and the Lawrence Superior Court, Division I, on a rotating basis, through the Clerk of Lawrence County. All mental health proceedings shall be filed in the Lawrence Superior Court, Division I. All protective order requests shall be filed in the Lawrence Circuit Court, subject to statutory exception and any exception specified by these rules. Additionally, if a dissolution action has been filed in the Lawrence Circuit or Superior Court, Division I, a subsequently filed protective order, with the same parties, shall be filed in that Court. Any Protective Order in which there is a companion criminal case shall be filed in the court that has jurisdiction over the criminal cause. All probate juvenile, guardianship, trust, adoption, or Title IV-D support collection matters, excepting those where the original dissolution was in Superior Court, Division I, shall be filed in the Lawrence Circuit Court.
- G. Modification.** The Courts of Lawrence County may, from time to time, modify the above rules regarding local assignment of cases to meet the needs of the Courts in circumstances deemed necessary by agreement of the Judges of the Courts of Lawrence County. Some instances that may necessitate temporary modification of this assignment of cases rule are as follows: temporary extended absence or disability of a Judge; a case of size or complexity to overburden a particular Court; temporary case load disparities.

## **LR47-AR00-002.5 ASSIGNMENT OF PROBLEM SOLVING COURT CASES**

### **A. Criminal Case Assignment**

1. All Lawrence County Problem Solving Courts are established to provide specialized services, including: clinical assessment, education, referral for treatment, and service coordination and case management for eligible defendants and probationers as determined by its written policy and procedures.
2. The Lawrence Circuit, Superior I and Superior II Courts all operate and manage Problem Solving Courts.
3. All criminal charges shall be filed as otherwise provided in this rule. However, after a charge has been filed, a judge may refer the defendant to a Problem Solving Court, and if accepted, transfer the defendant's case to the Court which operates such Problem Solving Court for services in accordance with policy and procedures.
4. Probationers may likewise be referred.

### **B. Fees for Lawrence County Problem Solving Courts.** Fees are as specified below:

#### **1. LAWRENCE SUPERIOR COURT II PROBLEM SOLVING COURT**

PROGRAM FEE: \$30.00 per month

AUTO CALL-IN SYSTEM: \$2.00 per month

Quick Test (13 panel): \$14.00 (If admits to positive screen and signs affidavit, then NO additional cost)

Confirmation Urine Drug Screen Testing (13 panel): \$24.00

Synthetic THC (473): \$35.00

Synthetic Stimulant (expanded-P81): \$45.00

Synthetic Stimulant (P80): \$60.00

The Community Corrections Department shall collect and transmit these fees within thirty (30) days after the fees are collected, for deposit by the Auditor or Fiscal Officer in the county in Community Corrections Fund 2518 Project Income.

#### **2. LAWRENCE COUNTY JUVENILE PROBLEM SOLVING COURT**

ADMINISTRATIVE FEE: \$50.00

PROGRAM FEE: \$20.00 per month for a total of \$240.00

Confirmation Urine Drug Screen Testing (13 panel): \$24.00

Synthetic THC (473): \$35.00

Synthetic Stimulant (expanded-P81): \$45.00

Synthetic Stimulant (P80): \$60.00

The Community Corrections Department shall collect and transmit these fees within thirty (30) days after the fees are collected, for deposit by the Auditor or Fiscal Officer in the county in Community Corrections Fund 2518 Project Income.

3. **LAWRENCE SUPERIOR COURT I PROBLEM SOLVING COURT**

PROGRAM FEE: \$30.00 per month

Quick Test (13 panel): \$15.00 (If admits to positive screen and signs affidavit, then NO additional cost)

Confirmation Urine Drug Screen Testing (13 panel): \$24.00

Synthetic THC (473): \$35.00

Synthetic Stimulant (expanded-P81): \$45.00

Synthetic Stimulant (P80): \$60.00

The clerk of the Court shall collect and transmit these fees within thirty (30) days after the fees are collected, for deposit by the Auditor or Fiscal Officer in Lawrence Superior Court 1 Problem Solving Court Account 9148.

*(Adopted effective October 3, 2014)*

**DR 20-CR13-000 APPOINTMENT OF SPECIAL JUDGE IN CRIMINAL CASES**

Each county within the Administrative District shall amend its local rules, pursuant to Criminal Rule 2.2 and 13, to allow for appointment of Special Judges utilizing the following elements.

**A. Eligibility for Special Judge Service.**

1. **Available to Serve.** Pursuant to Criminal Rule 13(C), the Judicial Officers of Administrative District 20 shall be deemed in agreement to serve as a Special Judge only for those case type(s) which compose that judicial officer's typical caseload, as determined by the local Caseload Allocation Plan.
2. **Prior Service Excluded.** The appointment of Special Judge shall apply unless the appointed Judicial Officer has previously served as Judge or Special Judge in the case, is disqualified by interest or relationship, or is excused from service as a Special Judge by the Indiana Supreme Court.

**B. Appointment within the Administrative District.** In order to improve the coordination within the Administrative District, and pursuant to Criminal Rule 13(C), appointments of a Special Judge in criminal cases shall be made among the Judicial Officers of the Administrative District.

- C. Appointment of a Special Judge.** In the event of the need for the regular, sitting Judicial Officer to recuse herself/himself from a normally assigned case, Special Judge appointment shall be made by the Administrative District 20 Facilitator.
1. **Priority Given to Local County Appointments.** Pursuant to Criminal Rule 2.2, appointments of a Special Judge shall be made in the same manner as set forth within the Local Rules of the Local County, so long as a Judicial Officer with criminal jurisdiction remains available within the Local County for appointment. Following the appointment of the Special Judge, the Special Judge may request that the case be forwarded to the court of the Special Judge.
  2. **District (Outside County) Appointments.** In the event that no Local Judicial Officer is available, a Special Judge shall be appointed, on a rotating basis, from the available Judicial Officers within the Administrative District.
- D. Acceptance of Appointment.**
1. **Acceptance Mandatory.** Pursuant to Criminal Rule 13(C), a person appointed to serve as Special Judge under these rules must accept jurisdiction in the case, unless the appointed Special Judge is disqualified pursuant to the Code of Judicial Conduct, ineligible for service under these rules, or excused from service by the Indiana Supreme Court.
  2. **Documentation.** An oath or additional evidence of acceptance of jurisdiction is not required.
- E. Supreme Court Certification.** In the event that no Judicial Officer in the Administrative District is eligible to serve as a Special Judge, or the regular, sitting Judicial Officer in the court in which the case is pending sets out particular circumstances why appointment under these rules should not be made, then the regular, sitting Judicial Officer shall certify the same to the Indiana Supreme Court for appointment of a Special Judge.
- F. Discontinuation of Special Judge Service.** The provisions of C.R. 13(F) if a Special Judge ceases to serve following assumption of jurisdiction.
- G. Method for Assignment and Related Records.** The District Facilitator has maintained a method for rotation for appointments and maintained records related thereto which will be continued. Any amendments to the method will be made by votes cast by the Judicial Officers of Administrative District 20.

*(Adopted effective August 15, 2013)*

**LR47-AR00-003          RULES FOR EVIDENCE HANDLING, RETENTION AND DISPOSITION**

**A. Preamble.** In all cases, the court shall proceed pursuant to these Rules unless the court directs a longer retention period after motion by any party or on its own motion.

**B. Retention Periods for Evidence introduced in Civil and Criminal Proceedings.**

1. **Civil Cases, Including Adoption, Paternity, and Juvenile Proceedings.** All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the court, four (4) months after the case is decided unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for two (2) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later. The Court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7.
2. **Misdemeanor, Class D, Class C, Level V, and Level VI Felonies and Attempts.** All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence except as otherwise ordered by the court, three (3) years after the case is dismissed, the defendant found not guilty, or the defendant is sentenced, unless an appeal is taken, If an appeal is taken, all such exhibits shall be retained by the court reporter for three (3) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending. The Court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7.
3. **Class B, Class A, Level IV, Level III, Level II, and Level I Felonies and Murder and Attempts.** All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the court, twenty (20) years after the case is dismissed, the defendant found not guilty, or the defendant is sentenced, unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for twenty (20) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7. Courts should be encouraged to photograph as much evidence as possible and courts and parties reminded of the requirements of Appellate Rule 29(B).

**C. Non-documentary and Oversized Exhibits.** Non-documentary and oversized exhibits shall not be sent to the Appellate level Court, but shall remain in the custody of the trial court or Administrative Agency during the appeal. Such exhibits shall be briefly identified in the Transcript where they were admitted into evidence. Photographs of any exhibit may be included in the volume of documentary exhibits. Under no circumstances should drugs, currency, or other dangerous or valuable items be included in appellate records.

**D. Notification and Disposition.**

1. **Notification.** In all cases, the court shall provide actual notice, by mail, to all attorneys of record and to parties only if unrepresented by counsel, that the evidence will be destroyed by a date certain if not retrieved before that date. Counsel and parties have the duty to keep the court informed of their current addresses and notice to the last current address shall be sufficient. Court reporters should maintain a log of retained evidence and scheduled disposition date and evidence should be held in a secure area. At the time of removal, a detailed receipt shall be given to the court reporter by the party receiving and removing the evidence, the receipt will be made part of the court file.
2. **Disposition.** In all cases, evidence which is not retaken after notice should be disposed of by the sheriff on the court's order. The sheriff should be ordered to destroy evidence if its possession is illegal or if it has negligible value. Evidence of some value should be auctioned by the sheriff with proceeds going to the county general fund. These Rules and their retention periods will take precedence over inconsistent language in statutes, ct I.C. 35-33-5-5(c)(2).

**E. Biologically Contaminated Evidence.** A party who offers biologically contaminated evidence must file a pretrial notice with the trial court and serve all the parties so that the court can consider the issue and rule appropriately before trial. A party can show contaminated evidence or pass photographs of it to jurors, but no such evidence, however, contained, shall be handled or passed to jurors or sent to the Jury Room.

**LR47-AR00-004      WEAPONS**

No weapons of any nature shall be brought into a courthouse, except those carried by an officer of the Court or duly authorized law enforcement officer. Violation of this rule may result in a finding of Contempt of Court, and possible imposition of sanctions or penalties against the violating party.

**LR47-AR00-005      AUDIO OR VIDEO EQUIPMENT IN COURTROOM**

No audio or video equipment shall be brought into or used in the courtroom, unless authorized by the Court.

*(Amended effective July 1, 2014)*

**LR47-AR15-006      PROVISION OF COURT REPORTER SERVICES**

- A. Definitions.** The Definitions contained in Administrative Rule 5(B) are adopted herein and control any question of interpretation. For the purposes of this rule, the regular hours worked by the Court reporting staff shall be Monday through Friday from 8:30 a.m. until 12:00 noon and 1:00 p.m. until 4:30 p.m. The work week shall be a seven-day period commencing with Sunday and ending with the Saturday of each week and contain thirty-seven and one-half (37 ½) hours for which salaried compensation is paid. Such work period may, from time to time, be modified by the judge in each Court of this county.
- B. Compensation.** A Court reporter shall work directly under the control, direction and direct supervision of the judge by whom they are employed during all hours of employment. Each Court reporter shall be paid an annual salary, as set by the Court and approved by the county council, for regular hours worked during the work week. Gap hours shall be separately compensated at a rate equivalent to the hourly rate of the early salary and overtime hours shall be separately compensated at a rate equivalent to one and one-half times the hourly rate of the yearly salary, or compensatory time off shall be given, weighted in the same manner.
- C. Duties and Responsibilities.** The duties of a Court Reporter shall include:
1. reporting the evidence presented in proceedings before the Court;
  2. preservation and storage of any physical evidence presented in Court proceedings;
  3. preparation of chronological case summary entries at the direction of the Court and providing notice thereof as required by the Rules of Trial Procedure;
  4. preparation of written documents to effectuate the rulings, order and judgments of the Court or comply with the rules of the Indiana Supreme Court;
  5. preparation of transcripts of evidence presented in Court proceedings requested pursuant to the rules of trial procedure; and
  6. such other functions and responsibilities as required by law or the Court for its effective administration.
- D. Transcript Preparation.** A reporter shall prepare transcripts of evidence, only during regular employment hours, unless otherwise requested or ordered to do so by the Court, the Indiana Court of Appeals or the Indian Supreme Court. If a transcript cannot be completed during regular hours due to applicable appellate deadlines, the reporter shall receive additional salary as follows: gap hours shall be paid in the amount equal to the hourly rate of the annual salary; overtime hours shall be paid in the amount of one and one-half times the hourly rate of the annual salary; or compensatory time off shall be given, weighted in the same manner. The manner of the provision of such additional salary of time off shall be determined by a written agreement to be freely negotiated and executed between the Court and the reporter.

- E. **Private Practice.** A reporter may elect to engage in the private practice of “reporting,” i.e., the recording of and preparation of deposition transcripts; but such activity, regardless of whether the deposition concerns a cause pending before the Court, shall be conducted outside of regular hours. A reporter electing to engage in such private conduct shall not use the Court’s facilities or equipment in such activities.
- F. **Maximum Per Page Fees.** The reporter shall not charge more than the following rates per page:  
Transcripts and Depositions: \$4.00 per page for originals, and \$2.00 per page for copies.  
Additional Fees:  
    A minimum fee of \$50.00 per transcript will be charged for transcripts of eight (8) pages or less.  
    A \$7.00 fee will be assessed for each binder needed and an additional \$3.00 fee will be charged for each diskette.  
    A fee of \$17.75 per hour will be charged for binding costs on appealable transcripts.  
    The Table of Contents and Index will be charged at the rate of \$4.00 per page in addition to binder costs and the hourly rate of \$17.75 per hour to bind same.
- G. **Annual Report.** A Court reporter shall annually report all transcript and deposition fees received to the Office of State Court Administration on such forms as may be prescribed.

*(Amended effective July 1, 2014)*

## LAWRENCE COUNTY LOCAL TRIAL RULES

### **LR47-TR04-101 SERVICE OF PROCESS**

- A. **Procedure for Service by Mail.** When service by certified or registered mail is requested, the party will prepare the certification or envelopes and furnish the necessary number of prepared summons, complaints, pleadings, notices or subpoenas to the Clerk, who shall prepare the envelopes using the addresses furnished; this will include parties represented by counsel in small claim matters. A party furnishing the return receipt card shall use the address of the Clerk as the return address. Upon receipt of the return by the Clerk, the Clerk shall prepare the affidavit or proof of service and insert it with the pleadings in the Court file.
- B. **Chronological Case Summary.** Issuance of summons or any other form of service process and any return thereon shall be noted by the Clerk in the Chronological Case Summary (CCS) of the case.

### **LR47 -TR03-102 APPEARANCES**

- A. **Filing Appearance.**
1. **Appearances.** Attorneys appearing in civil or criminal cases must enter their appearances in writing. All pleadings filed shall show the names and address of the individual attorney or attorneys filing the same. Any pleading not signed, as required by TR-11, shall not be accepted for filing by the Clerk of the Court, or if inadvertently accepted for filing, shall, upon discovery of such omission, be stricken from the record. A rubber stamp or facsimile signature on the original copy of such pleading shall not be acceptable.
  2. **Small Claims Appearances.** Attorneys entering appearances in small claim matters shall comply with the above Local Rule 201.A.1. Such appearances are deemed a general denial and will preserve all counterclaims of an offsetting nature up to the amount of the original claim.
- B. **Party Appearing Without an Attorney.** When a party to an action appears without an attorney, the party shall file information with the Clerk of the Court indicating the name of the pro se party together with their mailing address and phone number where notices and communications concerning the cause may be forwarded.
- C. **Address Changes.** An attorney whose address is outside Lawrence County who enters an appearance in a cause, and all parties who are not represented by an attorney, shall notify the Court or Clerk of any change of their mailing addresses and phone numbers, including small claim matters. Such notification shall be in writing and filed separately for each case to which the change applies and shall be served upon other parties to each case or their attorneys of record.
- D. **Proof of Mailing.** Certificates of service or proof of mailing of pleadings concerning any cause shall be deemed sufficient proof of service if such pleadings were mailed to the last address of a party or attorney noted upon the docket of a cause, including small claims.

- E. **Expiration of Appearance.** Upon the entry of an order granting withdrawal, or entry of a final judgment, sentence or disposition with respect to the pending issues in a cause, the representative capacity of all attorneys appearing on behalf of any party shall be deemed terminated, excepting: if an appeal is taken, then in such matter, the attorney's appearance will be deemed terminated upon completion of the appeal process, including small claims. The service of any post judgment pleadings upon any party pursuant to this paragraph shall be made upon that person pursuant to the Indiana Rules of Trial Procedure. Any copy served upon original counsel will be deemed to be a matter of professional courtesy only.

**LR47-TR03-103 WITHDRAWAL OF APPEARANCE**

- A. **Procedure for Withdrawal (including small claims).** All withdrawals of appearance shall be in writing and by leave of Court. Permission to withdraw shall be given only after the withdrawing attorney has given his/her client ten (10) days written notice of such intention to withdraw, as set forth in paragraph B below, and has filed a copy of such notice with the Court; or upon a simultaneous or prior entering of an appearance of other counsel for such client. In the matter of criminal cases where a public defender has been appointed and a possible conflict of interest is determined within thirty (30) days of such appointment, compliance with each element of this "Procedure of Withdrawal" is waived; in such event, such public defender shall only be required to file a request for withdrawal of such appointment, stating the possible conflict of interest, that the defendant has been advised to appear at scheduled hearings, and that notice of such requested withdrawal and possible conflict of interest has been mailed to the defendants last known address by ordinary mail.

No request for withdrawal of appearance shall be granted unless the same has been filed with the Court at least thirty (30) days prior to trial date, except for good cause shown.

- B. **Contents of Notice.** Any notice of intention to withdraw shall include an explanation to the client as follows:
1. the present status of the case;
  2. the date or dates of scheduled hearings or other pending matters which require timely action; and
  3. prejudice which might result from failure of the client to act promptly or to secure new counsel and specifically what the prejudice could be.

**LR47-TR05-104 CONSENT TO ALTERNATE SERVICE**

- A. **Courthouse Boxes.** Any Lawrence County attorney or any firm of attorneys may, without charge, maintain an assigned Courthouse mailbox in the central Lawrence County Courthouse. Such boxes are for receipt of notices, pleadings, process, orders, or other communications from the Lawrence Circuit and Superior Courts or the Clerk and other attorneys and law firms.
- B. **How Assigned.** Courthouse mailboxes shall be assigned to each Lawrence County attorney or firm or attorneys who shall be deemed to have consented to service therein.

- C. **Effect of Consent.** Deposits made in any assigned mailbox of notice, pleadings, process, orders, or other communications made shall be deemed to constitute and be accepted as service in compliance with Trial Rule 5. Such consent shall require regular (at least weekly) appearance at such location and the picking up of any items left in such mailbox.
- D. **Revocation of Consent.** Consent to Alternate Service under this rule shall remain valid until a revocation in writing has been filed with the Courts of Lawrence County. Notice of the revocation shall be given to all Courts and members of the Lawrence County Bar who have consented to alternative service by the attorney or law firm which has withdrawn its consent to alternative service.

#### **LR47-TR05-105          PREPARATION OF PLEADINGS**

All pleadings shall be in accordance with the Indiana Rules of Trial Procedure. For the purposes of uniformity and convenience, the following requirements shall also be observed:

- A. **Form.** Pleadings shall be either produced by word processing system or typewritten using black print on 8 ½ inch by 11 inch white paper, except for signatures, dating or cause numbers. Except for affidavits or supporting materials originally written by hand, or pro se applications or infraction petitions, handwritten pleadings or printed forms filled out in handwriting shall not be accepted for filing without the permission of the Court. The lines shall be at least one and one-half space except for quotations, which shall be indented and single-spaced. Photocopies are acceptable if legible.
- B. **Margins and Binding.** Margins shall be 1 inch. Binding or stapling shall be at the top left and at no other place. Covers or backing shall not be used.
- C. **Proceedings before Special Judges.** Pleadings filed in cases wherein a Special Judge has assumed jurisdiction shall state the name of the Special Judge immediately below the caption. Whenever the case is assigned to a Special Judge from Lawrence County, the hearings regarding the case shall be held in the Court of the Special Judge. If the Special Judge is from outside of Lawrence County, all hearings shall be held in the original Court unless otherwise ordered by the Special Judge. Pleadings shall be served pursuant to TR 5.

#### **LR47-TR77-106          FILING AND FILES**

- A. **Docketing of Cases by the Clerk.** Cases shall be docketed in the Courts by the Clerk pursuant to the Local Caseload Plan for the Eighty-First Judicial Circuit regarding the Assignment of Felony and Misdemeanor Cases as approved by the Indiana Supreme Court.
- B. **“Emergency” Pleadings and Delivery of Files.** When immediate action by the Court is sought upon a filed pleading, the pleading shall be delivered immediately to the Court along with a proposed order. The pleading shall indicate, as a heading, that the filing is an “emergency.”  
Upon filing a pleading entitled “emergency” or requesting an “emergency hearing,” the attorney and/or party filing same consents to hearings that may be set at irregular Court hours (e.g., early morning or evening), and with reduced notice to the attorney and parties.

- C. **Removal of Files.** Court files shall not be removed from the Courthouse except by the Clerk or the appropriate Court.

**LR47-TR08-107        MOTIONS AND BRIEFS**

- A. **Setting Motions for Hearing.** Unless the setting of a hearing is required by law, the scheduling of a hearing shall be discretionary with the Court. Parties desiring a hearing shall file a written praecipe with their motion and prior to a ruling by the court. Attorneys filing “emergency” petitions or requesting “emergency hearings” are directed to note LR47-TR77-106 above.
- B. **Briefs and Memoranda.** If a party desires to file a brief or memorandum in support of any motion, such brief or memorandum shall accompany the motion, and a copy shall be promptly served upon the adverse party. Opposing parties may file a brief or memorandum within the time prescribed by the Trial Rules.
- C. **Trial Briefs.** Unless ordered otherwise, Trial Briefs may be filed and exchanged by the parties at least five (5) working days before trial.

**LR47-TR08-108        PROPOSED ORDERS**

- A. **Matters in Which Proposed Orders Required.** Prior to entry by the Court of orders granting motions or applications, the moving party or applicant shall, unless the Court directs otherwise, furnish the Court with a proposed order in the following matters:
1. Enlargement of time;
  2. continuance containing a blank space for rescheduling;
  3. default judgment;
  4. compulsion of discovery;
  5. dismissal;
  6. appointment of receiver;
  7. appointment of guardian;
  8. restraining order, temporary or permanent injunction;
  9. immediate possession of real estate;
  10. immediate possession of personal property;
  11. proposed findings of fact and conclusions of law and judgment under TR 52;
  12. foreclosure of a mortgage or other lien;
  13. stay of proceedings by reason of bankruptcy, appeal, or other grounds; and
  14. such other orders, judgments, or decrees as the Court may direct.
- This rule does not apply to judgments on general verdicts of the jury or upon a decision to be announced by the Court.
- B. **Copies.** All proposed orders submitted to the Court shall be in sufficient number so that in addition to the original and one copy for the Court file, a copy can be furnished to each party. Further, upon request of a Court, parties may be required to submit proposed orders on disc in “Word” format.

**LR47-TR69-109      SERVICE BY SHERIFF; ATTACHMENT**

- A. **Attachment-Duties of Sheriff.** Unless otherwise directed by the Court, when a civil body attachment is to be issued by a Court and delivered to the sheriff in a proceedings supplemental, the Court from which the proceedings supplemental is pending, shall first issue a written notice or CCS entry to the judgment debtor/defendant to their last known address. Such letter or notice shall inform the judgment debtor that a civil body attachment has been issued and he/she must satisfy the reason such attachment was issued as specified in such notice/CCS entry. Prior to issuing the body attachment the plaintiff's attorney will request that the Court place a bond upon the judgment debtor/defendant; such bond may be fixed within the discretion of the Court and applicable law. If the attachment is served outside of Court hours, he/she shall be taken to the jail and required to post the amount of bond indicated to guarantee his/her appearance in Court. Upon posting of the bond, he/she will be released with the admonition to appear in the appropriate Court at a designated time or be subject to a finding of contempt and issuance of another body attachment without bond.
- B. **Attachment Hearings.** When a judgment debtor/defendant has been brought into Court on a body attachment, a hearing will be conducted at the earliest convenience of the Court. Plaintiff, if unrepresented, and/or counsel for plaintiff, will respond to the telephone request by Court personnel to appear at the hearing forthwith, and counsel will have deemed to have consented to such notice to immediately appear by requesting a body attachment. The hearing requires the presence of the attorney of record, and clerical or secretarial personnel shall not appear to interrogate the attached judgment defendant. Failure of counsel to respond promptly to such request may result in the discharge of the attached defendant, dismissal of the proceeding, or other appropriate measures by the Court.

**LR47-TR53.5-110      CONTINUANCES**

- A. **Motion for Continuance.** Unless made during trial or hearing, a motion for continuance shall be in writing and state with particularity the following: the grounds for such request; that all opposing counsel or parties have been contacted; whether they consent or object to the continuance, or if counsel or the party have not been contacted, the reasons therefore must be fully set forth. Counsel requesting such continuance shall contact the Court with a proposed date for the rescheduling of the case, which is acceptable to opposing counsel and the Court.
- B. **Time for Filing.** Motions or Stipulations for Continuance shall be filed as soon after the cause for continuance or delay is discovered by the party seeking same, and no later than seven (7) days before the scheduled date, unless the reason therefore is shown by affidavit to have occurred within such seven (7) day period. Such time for filing shall not be applicable to jury trials, which motions for continuance shall be filed thirty (30) days in advance.
- C. **Small Claims.** The provisions of the rule shall also apply to small claim matters, excepting the requirements for filing of affidavits in paragraph B above.

**LR47-TR26-111      DISCOVERY**

- A. **Civil Cases.** In all cases triable by jury, final lists of witnesses and exhibits shall be exchanged pursuant to pre-trial orders of the Court.
- B. **Extension of Time.** For good cause shown, time may be extended for completion of discovery.
- C. **Criminal Cases.** The State of Indiana and the Defendant shall provide full reciprocal discovery as described herein and as permitted by applicable law. Each side shall have an ongoing duty to promptly supplement the discovery it has provided. Disclosure deadlines may be modified by a filed written agreement of counsel and by leave of Court.

In order to obtain discovery pursuant to these rules, the Defendant shall provide a written request to the state. Such written request shall be, in short form, as follows:

“Defendant requests discovery from the State of Indiana pursuant to Local Rule TR26-111.C.”

The Defendant shall then disclose and furnish all relevant items and information as requested by this rule to the State within fifteen (15) days after the State’s disclosure. All discovery is subject to Constitutional limitations, and such other limitation of Indiana statute and case law, and as the Court may specifically provide by separate order.

A written motion is also required as follows: to compel compliance with this rule; for additional discovery not covered by this rule; for a protective order seeking exemption for the provisions of this rule; or for an extension of time to comply with this rule.

- 1. **State’s Disclosure.** The State shall disclose the following materials and information within its possession or control as a result of the short-form request of the defendant described above:
  - a. the names and last known addresses of persons whom the State knows to be witnesses, and/or that the State intends to call as witnesses, along with copies of their relevant written and recorded statements;
  - b. any written, oral, or recorded statements made by the accused or by a co-defendant, and a list of witnesses to the making and acknowledgement of such statements;
  - c. any reports provided by any law enforcement agency made in connection with the case;
  - d. if applicable, the State shall disclose the existence of grand jury testimony of any person whom the prosecuting attorney may call as a witness at any trial or hearing. In addition, the State shall provide a copy of those portions of any transcript of grand jury minutes, within the State’s possession, which contain the testimony of such witness and witnesses. If such transcripts do not exist, the defendant may apply to the Court for an order requiring their preparation;
  - e. any reports or statements of experts, made in connection with the particular case, including results of physician or mental examinations and of scientific tests, experiments, or comparisons;
  - f. any books, papers, documents, photographs, or tangible objects that the prosecuting attorney intends to offer in evidence at a hearing or trial, or which were obtained from or belong to the accused;

- g. any record or prior criminal convictions that may be used for impeachment of the persons who the State intends to call as witnesses at any hearing or trial; and
  - h. any material or information within its possession or control that tends to negate the guilt of the accused as to the offenses charged or would tend to reduce the punishment for such offenses.
2. **Defendant's Disclosure.** Defendant's counsel (or defendant where defendant is proceeding pro se) shall furnish the State with the following material and information within his/her possession or control:
- a. the names and last known addresses of persons whom the defendant intends to call as witnesses, along with copies of their relevant written and recorded statements;
  - b. any books, papers, documents, photographs, or tangible objects defendant intends to use as evidence at any trial or hearing;
  - c. any medical, scientific, or expert witness evaluations, statements, reports, or testimony, which may be used at any trial or hearing;
  - d. any defense, procedural or substantive, which the defendant intends to make at any hearing or trial; and
  - e. any record of prior criminal convictions known to the defendant or defense counsel that may be used for impeachment of the persons whom the defense intends to call at any hearing or trial.
3. **General Provisions.** Counsel for the State of Indiana and Defendant shall only be required to produce criminal record information which they actually have obtained. Absent a showing of good cause neither side shall be required to obtain criminal records for the other party. The parties may perform these disclosure obligations in any mutually agreeable manner. Compliance may include a notification that material and information being disclosed may be inspected, obtained, tested, copied, or photographed at a specified reasonable time and place.

**D. Interrogatories.**

- 1. Interrogatories and requests for admissions to be served upon another party shall not be filed with the Court. The person serving interrogatories or requests for admissions shall notify the Court in writing of the service of such and the date upon which answers are to be made.
- 2. Answers or objections to interrogatories or requests for admissions shall set forth in full the interrogatory beings answered or objected to immediately preceding the answer or objection; if a request for admission is being denied, admitted or objected to, the requested admission shall be set forth immediately preceding the answer or objection.
- 3. Each interrogatory or request for admissions requiring an answer shall be numbered individually and consecutively by simple Arabic numerals; no question shall be phrased or numbered by the use of parenthesis or letter in a way to make it a sub-question to another interrogatory. No sub-questions are permitted.

4. No mimeographed or otherwise duplicated forms of interrogatories or requests for admissions shall be filed or served upon a party unless all interrogatories or requests for admissions on such forms are consecutively numbered and applicable to the case in which the same are filed and served. The intent and purpose of this rule is to prohibit the filing of mimeographed or otherwise duplicated forms of interrogatories or requests for admissions, except where the nature of the case or the number of the parties makes the use of such forms necessary and feasible.
  5. The number of interrogatories or requests for admissions, which may be served pursuant to TR-33 or TR-36, shall be limited so as to require the answering party to make no more than twenty (20) answers. Waiver of this limitation by order of the Court will be granted in cases in which such limitation would work a manifest injustice or would be impractical because of the complexity of the issues of the case. Requests for waiver on the limitation of number of interrogatories may only be made to the Court following original service and answer of twenty (20) interrogatories. Any such request for waiver must specify the information needed, that additional interrogatories are the most expeditious way to obtain such needed information, and how many additional interrogatories are believed necessary.
- E. **Cooperation in Discovery.** To curtail undue delay in the administration of justice, the Court shall refuse to rule on any and all motions for discovery concerned with the production of documents or things, permission to enter upon land or other property for inspection and other purposes, for physical or mental examinations, or to compel discover, all as provided in TR-26, unless the moving party shall first advise the Court in writing that after personal consultation and sincere attempts to resolve differences, the parties are unable to reach an accord on such discovery request. The Court shall be advised in writing as to what specific efforts have been made. If counsel for any party advises the Court in writing that opposing counsel has refused or delayed meeting to discuss the matters covered in this subsection, the Court may take such action as is appropriate to avoid delay, including, but not limited to, sanctions.

#### **LR47-ADR2-112      MEDIATION**

- A. In all cases of dissolution of marriage or modification or original decrees thereof, requiring more than one (1) hour for a final hearing, and in all civil cases where a timely demand for jury trial has been made and all cases to be tried without a jury where more than two hours of trial is anticipated, mediation pursuant to A.D.R. Rule 2 is mandatory. Referral of the case to mediation may occur at the first Pre-trial Conference or preliminary hearing, or earlier by agreement of the parties, or order of the Court, or a written request for appointment of a mediator. In the event the parties agree upon a mediator they shall advise the Court of the identity of the mediator so that an order of appointment may be entered.
- B. **Objection to Mediation.** Any party may object to mediation by filing a written objection specifying the grounds. Upon hearing or after receipt of the parties written positions, the Court shall consider the objection and determine whether the litigation should be mediated.

- C. **Other Forms of Alternative Dispute Resolution.** The parties are encouraged to consider other forms of Alternative Dispute Resolution, either in lieu of or to augment required mediation.

**LR47-TR79-113      SPECIAL JUDGE SELECTION (INCLUDING SMALL CLAIMS)**

When it is necessary to appoint a special judge pursuant to Trial Rule 79 (H), it shall be done in accordance with District 20 Rule on appointment of special judge in civil cases at **DR20-TR79-000**.

*(Amended effective August 15, 2013)*

**DR 20-TR79-000 APPOINTMENT OF SPECIAL JUDGE IN CIVIL CASES**

**A.      Eligibility for Special Judge Service:**

1. **Agreement to Serve.** Pursuant to Trial Rule 79(H), the full-time Judicial Officers of Administrative District 20 shall be deemed in agreement to serve as a Special Judge only for those case type(s) which compose that Judicial Officer's typical caseload, as determined by the Local County Caseload Allocation Plan.
2. **Prior Service Excluded.** The appointment as Special Judge shall apply unless the appointed Judicial Officer has previously served as Judge or Special Judge in the case, is disqualified by interest or relationship, or is excused from service as a Special Judge by the Indiana Supreme Court.

**B.      Appointment of a Special Judge:** In the event of the need for the regular, sitting Judicial Officer to recuse herself/himself from a normally assigned case, or should the appointment of a Special Judge through agreement by the Parties fail, the Special Judge appointment shall be made by the Administrative District 20 Facilitator:

1. **Priority Given to Local County Appointments.** Special Judge appointments shall be made within the Local County, on a rotating basis so long as a Judicial Officer within the County who has jurisdiction for the type of case remains eligible for Special Judge service. Following the appointment of the Special Judge, the Special Judge may request that the case be transferred to the court of the Special Judge.
2. **District (Outside County) Appointments.** In the event that no Local Judicial Officer is available, the case will be forwarded to the District 20 Facilitator who will appoint a Special Judge on a rotating basis, from the available Judicial Officers within the Administrative District who have jurisdiction for the type of case.

**C.      Acceptance of Appointment:**

1. **Acceptance Mandatory.** Pursuant to Trial Rule 79(H), a person appointed to serve as Special Judge under these rules must accept jurisdiction in the case, unless the appointed Special Judge is disqualified pursuant to the Code of Judicial Conduct, ineligible for service under these rules, or excused from service by the Indiana Supreme Court.
2. **Documentation.** An oath or additional evidence of acceptance of jurisdiction is not required.

- D. **Supreme Court Certification.** In the event that no Judicial Officer in the Administrative District is eligible to serve as a Special Judge, or the regular, sitting Judicial Officer in the court in which the case is pending sets out particular circumstances why appointment under these rules should not be made, then the regular, sitting Judicial Officer shall certify the same to the Indiana Supreme Court for appointment of a Special Judge.
- E. **Discontinuation of Special Judge Service.** The provisions of T.R. 79(I) apply if a Special Judge ceases to serve following assumption of jurisdiction.
- F. **Method of Assignment and Related Records.** The District Facilitator has maintained a method for rotation for appointments and maintained records related thereto which will be continued. Any amendments to the method will be made by votes cast by the Judicial Officers of Administrative District 20.

*(Adopted effective August 15, 2013)*

**LR47-TR6-114            PRE-TRIAL CONFERENCE (CIVIL)**

- A. **Requirement for Pre-Trial Conference – Waiver.** There shall be a pre-trial conference in every non-small claim case. Such pre-trial conference shall fully comply with Trial Rule 16, unless:
  - 1. the parties stipulate in writing to the contrary and the Court approves the stipulation; or,
  - 2. the Court, on its own motion, directs to the contrary.
- B. **Telephonic Pre-Trial.** Pre-Trial Conferences may be conducted by telephone upon prior arrangement with and approval by the Court. Such telephonic conferences shall be initiated by counsel for plaintiff, unless otherwise agreed or ordered.

**LR47-TR47-115           TRIALS AND JURIES**

- A. **Timeliness.** Trials and hearing shall begin promptly as ordered unless otherwise directed by the Court. Advance “settlement conferences” may be required. The attorneys and the litigants are encouraged to arrive substantially in advance of the scheduled time for the purpose of entering into any last minute stipulations or agreements.
- B. **Jury Questionnaire.** Completed Jury Questionnaire forms shall be available for inspection by the parties in the cause.
- C. **Voir Dire Examination by Court.** The Court, in its discretion, may conduct the initial voir dire examination.

- D. **Voir Dire Examination by Counsel.** Following the voir dire examination by the Court, if any, each party shall be permitted an opportunity to conduct voir dire examination. The questions asked by the parties on voir dire shall be limited, to the extent possible, to those questions bearing upon the qualifications of the prospective jurors not adequately covered by the questions and answers contained in the completed juror questionnaire or the previous questions, if any. Time limitations upon voir dire will be implemented by the Court with notice to counsel.
- E. **Challenges.** After the Defendant's voir dire examination, the parties, or their attorneys, shall approach the bench and either accept the prospective jurors or make peremptory challenges, out of the hearing of the prospective jurors. Challenges for cause shall be made immediately upon the basis for the challenge being disclosed by the prospective juror and shall be tried summarily by the Court with leave granted to all parties to participate in voir dire upon the issue.
- F. **Multiple Parties.** In case of multiple Plaintiffs or multiple Defendants, the details of the voir dire procedure will be determined before trial.
- G. **Jury Instructions.** Preliminary and initially proposed Final instructions shall be filed with the Court no later than ten (10) days in advance, unless otherwise ordered by the Court, of the commencement of trial.
- H. **Juror Contact.** It shall be improper for any party, or any attorney who has been involved in a trial by jury, to approach or contact any member of the jury panel called to hear the case. The Court may, at the conclusion of any jury trial, offer to the jurors the option to speak with counsel; such choice shall be the sole decision of each juror.

**LR47 – JR4- 116      SUMMONING JURORS**

Pursuant to Indiana Jury Rule 4, the judges of Lawrence County have selected the two-tier system of subparagraph b of Indiana Jury Rule 4 as the method for summoning jurors in Lawrence County.